



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 9

RIN 2900-AO42

Servicemembers' Group Life Insurance and Veterans' Group Life Insurance
Information Access

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations governing Servicemembers' Group Life Insurance (SGLI), Family SGLI, SGLI Traumatic Injury Protection, and Veterans' Group Life Insurance (all hereafter referred to as SGLI) to clarify and acknowledge what is implicit in the law: that VA, which has the responsibility under the law to administer the SGLI programs, also has the right to full access to records held by the insurer or on behalf of the insurer from whom VA has purchased a policy. These records include all of the insurer's records related to the operation and administration of the SGLI programs necessary to protect the legal and financial rights of the Government and of the persons affected by the activities of the agency and its agents. This document adopts as a final rule, without change, the proposed rule published in the Federal Register on September 23, 2013.

DATES: Effective Date: This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Monica Keitt, Attorney/Advisor,
Department of Veterans Affairs, Regional Office and Insurance Center
(310/290B), 5000 Wissahickon Avenue, P.O. Box 8079, Philadelphia, PA 19101,
(215) 842-2000, ext. 2905. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 23, 2013, VA published in the Federal Register (78 FR 58264), a proposed rule to add § 9.21 to 38 CFR part 9, to clarify that, as part of its responsibilities under 38 U.S.C. 1966 and 44 U.S.C. 3301, VA has the right to complete and unrestricted access to the records of any insurer, reinsurer(s), and their successors (jointly referred to hereafter as “insurer”) with respect to the SGLI policy and related benefit programs or services that are derived from the policy. In order for VA to meet its responsibilities under sections 1966 and 3301, VA requires access to any records relating to the operation and administration of the benefit programs derived from the policy and records related to the organization, functions, policies, decisions, procedures, and essential transactions of the insurer. VA’s access to records includes records containing financial information of the insurer and records of individuals insured under the policy or utilizing other related program benefits and services or who may be entitled to benefits derived through the SGLI programs, including personally identifiable information concerning such individuals and their beneficiaries.

The proposed rule was published in the Federal Register (78 FR 58264) on September 23, 2013. A 60-day comment period was provided. No public comments were received regarding the proposed rule. As a result, based on the rationale set forth in the proposed rule, we adopt the provisions of the proposed rule as a final rule without change. This rule will apply to the insurer as of the effective date of the final rule, namely 30 days following the date of publication of the final rule.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C 3501-3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is

necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," which requires review by the Office of Management and Budget (OMB), unless OMB waives such review, as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy

of the rulemaking and its impact analysis are available on VA's Web site at <http://www1.va.gov/orpm/>, by following the link for "VA Regulations Published."

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule will directly affect only the insurer and entities acting on its behalf and individuals whose records may be held by the insurer and will not directly affect any small entities.

Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veteran Affairs, approved this document on August 11, 2014, for publication.

List of Subjects in 38 CFR Part 9

Life insurance, Military personnel, Veterans.

Dated: August 11, 2014.

Robert C. McFetridge,
Director, Regulation Policy and Management,
Office of the General Counsel,
Department of Veterans Affairs.

For the reasons set forth in the preamble to this final rule and to the proposed rule, VA amends 38 CFR part 9 as follows:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS'
GROUP LIFE INSURANCE

1. The authority citation for part 9 continues to read as follows:

Authority: 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

2. Add § 9.21 to read as follows:

§ 9.21 VA's access to records maintained by the insurer, reinsurer(s), and their successors.

(a) In order to perform oversight responsibilities designed to protect the legal and financial rights of the Government and persons affected by the activities of the Department of Veterans Affairs and its agents and to ensure that the policy and the related program benefits and services are managed effectively and efficiently as required by law, the Secretary of Veterans Affairs shall have complete and unrestricted access to the records of any insurer, reinsurer(s), and their successors with respect to the policy and related benefit programs or services that are derived from the policy. This access includes access to:

(1) Any records relating to the operation and administration of benefit programs derived from the policy, which are considered to be Federal records created under the policy;

(2) Records related to the organization, functions, policies, decisions, procedures, and essential transactions, including financial information, of the insurer, reinsurer(s), and their successors; and

(3) Records of individuals insured under the policy or utilizing other related program benefits and services or who may be entitled to benefits derived through the Servicemembers' and Veterans' Group Life Insurance programs, including personally identifiable information concerning such individuals and their beneficiaries.

(b) Complete access to these records shall include the right to have the originals of such records sent to the Secretary of Veterans Affairs or a representative of the Secretary at the Secretary's direction. The records shall be available in either hard copy or readable electronic media. At the Secretary's option, copies may be provided in lieu of originals where allowed by the Federal Records Act, 44 U.S.C. chapter 31.

(Authority: 5 U.S.C. 552, 552a; 38 U.S.C. 1966, 5701, 5725, 5727, 7332; 44 U.S.C. 3101, 3301)

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